IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL No. 1081 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE ANIL R. DAVE
HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX-I BARODA - Appellant(s)
Versus
AIR COMMAND INTERNATIONAL LTD. - Opponent(s)

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Appearance :
MR MANISH R BHATT for Appellant(s) : 1,
MR MANISH J SHAH for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE ANIL R. DAVE
and
HONOURABLE MR.JUSTICE K.A.PUJ

Date : 28/03/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE ANIL R. DAVE)

1. Heard Mr.Manish R.Bhatt, learned Standing Counsel for the appellant and Mr.Manish J. Shah, learned advocate for the respondent.

2. Admit.

3. In our opinion the following substantial question of law arises in this appeal.

> “Whether on the facts and in the circumstances of the case, the order of the Income-Tax Appellate Tribunal is just and proper in view of the fact that no reason for substituting the order of the CIT (Appeals) has been stated in its order with regard to netting of interest of income and allowing expenditure of Rs.5 lacs out of further expenses of Rs.24,11,995/- ?”

4. Looking to the facts of the case the appeal is taken up for final hearing today.

5. Upon going through the impugned order passed by

the Tribunal, we find that the Tribunal has not assigned any reason for which the order of the Commissioner of the Income-Tax (Appeals) has been substituted by its own different order.

6. It is a settled legal position that whenever any quasi judicial authority makes any order, it should assign reasons for coming to a particular conclusion. The said law has been reiterated by this Court in the judgment delivered in the case of S.J.And S.P.Family Trust vs. Dy. Commissioner of Income-Tax (Assessment) (2005) 277 ITR 557 (Guj.) and in the case of Gautam Harilal Gotecha vs. Dy. Commissioner of Income-Tax (Investigation) (2006) 281 ITR 283 (Guj.).

7. Looking to the law laid down in the aforesaid two judgments delivered by this Court, in our opinion the Tribunal ought to have assigned reasons for coming to the particular conclusion. If the reasons for arriving at a particular conclusion are not recorded in the order passed by an

authority, it becomes difficult for the appellate authority to understand whether the issue which was before the lower authority was properly appreciated.

8. In view of the above circumstances, in the interest of justice we allow the appeal by quashing the impugned order so far as it pertains to assessment year 1994-95 and remand the matter to the Tribunal so that the Appeal No.3081/Ahd/1997 for the assessment year 1994-95 can be decided after hearing both the parties. The appeal stands disposed of as allowed with no order as to costs.

(ANIL R. DAVE,J.) (K.A. PUJ, J.)

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